



California Forestry Association

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July 27, 2006

Mike Chrisman, Secretary for Resources
Resources Agency
1416 Ninth Street
Sacramento, California 95814

Subject: Draft Section 2112 Incidental Take Permit for Coho Salmon

Dear Mike,

It came as quite a surprise to us that you chose to announce the roll out of a draft section 2112 Incidental Take Permit (ITP) for coho salmon at the July Board of Forestry meeting. For over a year, there has been no substantive discussion between the regulated public and Department of Fish & Game (DFG) concerning ITP approaches or the provisions of the draft regulations. Notwithstanding our concern in this regard, the California Forestry Association (CFA) does support your decision to bring this important matter to the Board of Forestry (Board) for further review, development and consolidation with the Forest Practice Rules (Rules).

The Board is currently undertaking a scientific literature review of the Threatened or Impaired Watershed Rules (T/I Rules). The T/I Rules were adopted over six years ago as temporary and highly prescriptive forest practice mitigations related to anadromous salmonids, specifically coho. Unfortunately, since the inception of the Rules in 2000, neither the Board, the DFG, or the California Department of Forestry and Fire Protection (CDF) have allocated the resources to conduct monitoring focused exclusively on the effectiveness of the T/I Rules. As a result, the Board currently lacks a comprehensive compendium of monitoring results or current scientific research as a foundation for reviewing the implementation and effectiveness of the T/I Rules.

As such, the goal of this literature review is to provide a scientific foundation for the Board's decision-making process on amendments to the Rules related to protection of anadromous salmonids. Section 2112 of the Fish and Game code requires that "the rules and guidelines shall be based upon the best available scientific evidence." Therefore, we thoroughly agree with and support your proposal that the Board harmonize the ITP process into the T/I science review process. Adoption of any new rules should not occur until this process has been completed. To achieve this objective, it is necessary to establish an organizational framework that provides technical and financial support to the Board concerning the science review process. The science review has been estimated to cost between \$50,000 - \$100,000.

As you have proposed, regulatory actions affecting forestland management and timber harvesting operations should be vetted through the Board and should have a foundation of sound science. These actions should also be economically feasible, and should be fully transparent to the regulated public as well as other stakeholders. An overarching concern with state regulation by forest landowners is the clear trend away from a single, integrated, CEQA-based permitting system toward a poorly coordinated, agency-by-agency regulatory regime. We therefore support your recommendation to consolidate the ITP process into the Rules.

The California Coho Recovery Strategy (Strategy) states, "[r]ecovery actions call for improved coordination among governmental agencies in implementing, enforcing, and streamlining the permit process to promote activities that benefit Coho salmon." Moreover, the Strategy states, "The Department [Fish & Game] believes adaptive management is essential for successful planning and implementation of Coho salmon recovery." Further, that "Adaptive Management is the process of involving scientific method and the experience of stakeholders and resource managers in an iterative process that allows for plan flexibility and responsiveness in revising the Recovery Strategy based on the best available science and data."

As you mentioned at the Board meeting, a recovery strategy is best accomplished by working together to achieve clarity with a single set of rules. I'm pleased to hear that you have directed the DFG staff to work collaboratively with the Board, its staff, and the regulated community in this process. Earnest collaboration is key if this process is to meet your desired goal of protection for coho salmon, while minimizing regulatory impact and maximizing regulatory certainty.

We look forward to working with the Board, CDF and DFG to help assure that these objectives are met.

Sincerely,

A handwritten signature in dark ink, appearing to read "David A. Bischel", with a stylized, flowing script.

David A. Bischel
President

cc: Members, Board of Forestry